

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

CERTIORARI STATUS FORM – DUE WITHIN FIRST 60 DAYS OF CERTIORARI PERIOD

CASE NO. _____ CASE CAPTION _____

Certiorari Obligations

The Fourth Circuit's [CJA Plan](#) provides as follows at § 5, ¶ 2:

Every attorney, including retained counsel, who represents a defendant in this court shall continue to represent his client after termination of the appeal unless relieved of further responsibility by this court or the Supreme Court. Where counsel has not been relieved:

If the judgment of this court is adverse to the defendant, counsel shall inform the defendant, in writing, of his right to petition the Supreme Court for a writ of certiorari. If the defendant, in writing, so requests and in counsel's considered judgment there are grounds for seeking Supreme Court review, counsel shall prepare and file a timely petition for such a writ and transmit a copy to the defendant. Thereafter, unless otherwise instructed by the Supreme Court or its clerk, or unless any applicable rule, order or plan of the Supreme Court shall otherwise provide, counsel shall take whatever further steps are necessary to protect the rights of the defendant, until the petition is granted or denied.

If the appellant requests that a petition for writ of certiorari be filed but counsel believes that such a petition would be frivolous, counsel may file a motion to withdraw with this court wherein counsel requests to be relieved of the responsibility of filing a petition for writ of certiorari. The motion must reflect that a copy was served on the client.

Fourth Circuit Rule 46(d) requires that counsel serve a copy of the motion to withdraw on the client and inform the client of the right to file a response to the motion within seven days.

Filing Time for Petition for Certiorari – Effect of Petition for Panel or En Banc Rehearing

A petition for panel or en banc rehearing in a criminal case is timely if filed within 14 days of the Court's decision. Counsel's duty is fully discharged without filing a petition for panel or en banc rehearing unless, in counsel's judgment, the case meets the rigorous requirements of Local Rule 40(b) for panel rehearing or Fed. R. App. P. 35(b) for en banc rehearing.

If no petition for panel or en banc rehearing is filed, the period for filing a petition for certiorari runs from the date of this Court's decision. If a timely petition for panel or en banc rehearing is filed and denied, the period for filing a petition for certiorari runs from the date the petition is denied.

Information on filing a pro se petition for writ of certiorari is available from the Supreme Court of the United States, Office of the Clerk, Washington, D.C. 20543-0001.

Filing of Certiorari Status Form by Counsel

To protect defendant's certiorari rights in any case in which the Court's judgment was adverse

to the defendant, counsel must return this or like form within the first 60 days of the certiorari period and serve a copy on defendant. Counsel must file an amended **Certiorari Status Form** if the information subsequently changes.

The Court will not consider counsel's CJA 20 payment voucher until counsel has completed their representation, including filing of the Certiorari Status Form.

CERTIORARI STATUS FORM

Please select one:

My client has asked that I file a certiorari petition; I am filing a petition for certiorari in this case.

I have advised my client regarding his/her certiorari rights and filed a motion to withdraw as counsel in the Fourth Circuit on the grounds that a certiorari petition would be frivolous.

My client has informed me that he/she does **NOT** request that I file a petition for certiorari.

More than 30 days have elapsed since I asked my client to inform me whether a certiorari petition is requested; my client has not responded. (Please note that, if the defendant subsequently requests the filing of a certiorari petition, counsel must either file the petition or move to withdraw because the petition would be frivolous.)

A certiorari petition is unnecessary because the decision was not adverse to my client.

Signature

Date

CERTIFICATE OF SERVICE

I certify that on _____ the foregoing document was served on defendant at the address listed below:

Signature

Date

Comments:

File form electronically using entry Certiorari status form.